

REGULATORY OBSTACLES TO THE
DEPLOYMENT OF BROADBAND
FACILITIES**HON. RICK BOUCHER**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 21, 2004

Mr. BOUCHER. Mr. Speaker, I rise today to discuss the positive economic benefits of eliminating the regulatory obstacles to the deployment of broadband facilities by telecommunications carriers. A recent report by economists Robert W. Crandall and Charles L. Jackson supplies strong evidence that further deregulation will jumpstart the sluggish technology sector and increase investment in broadband, which will in turn encourage greater Internet use, and expand the market for a broad range of technologies from computers and servers to digital appliances for the home that connect over the Internet.

Despite recent efforts by the Federal Communications Commission (FCC) in its Triennial Review Order (TRO) to promote broadband investment, several restrictions on broadband deployment remain that threaten to undercut the economic benefits the FCC was seeking to foster in its deregulatory order. The FCC has before it a reconsideration proceeding in which it has the opportunity to eliminate remaining barriers to investment and nourish broadband deployment, innovation, and economic growth. I urge the Commission to take full advantage of that opportunity. The following counterproductive regulations should be repealed:

First, although the FCC has eliminated unbundling requirements for new mass market broadband deployments, it mistakenly ruled that multiple dwelling units (MDUs) are subject to the greater unbundling obligations applied to the enterprise market. Apartment complexes and other primarily residential buildings should be treated the same as single family houses and small businesses that fall within the mass market. The unbundling requirements that apply to the enterprise market should not apply to these multi-family dwellings.

Second, the TRO muddies the distinction between the mass market and the enterprise market in other unfortunate ways. The FCC recognized that telephone companies face tremendous competition from cable operators when telephone companies seek to deploy new broadband networks to the mass market. It accordingly provided maximum unbundling relief to telephone companies for mass market deployments. But the FCC failed to say what the mass market includes. In particular, providers are uncertain whether fiber loops deployed to small businesses will be subject to unbundling at below-cost rates. The FCC should clear up this uncertainty by providing a clear definition of the mass market.

Third, although the TRO properly eliminates unbundling obligations for broadband under section 251 of the Communications Act, the FCC appears to have required the Bell companies to provide unbundled access to their broadband facilities under a different section—section 271. The FCC should make clear that no provision of the Act requires carriers to physically unbundle broadband facilities at cost-based rates.

The FCC needs to act swiftly to eliminate these lingering impediments to broadband de-

ployment. By doing so, the Commission will unleash the full potential of broadband communications, which will serve as an immediate stimulus for the economy.

According to the Crandall-Jackson report, if the FCC acts as I have recommended to deregulate broadband, as many as 1.2 million new jobs could emerge over the next decade from the resulting widespread adoption of existing and advanced broadband technologies. In as little as 5 years, the more than 250,000 jobs lost between 2000–2003 in the telecommunications service and equipment sector could be restored. Capital investment could increase to such an extent that by 2021, capital expenditure on broadband technologies will reach \$63.6 billion and create a cumulative increase in gross domestic product of \$179.7 billion.

Finally, in addition to creating the proper framework for investment in broadband facilities, I urge the FCC to promote regulatory parity for the broadband services provided by cable operators and telephone companies. Under current rules, telephone companies are required to provide nondiscriminatory access to all Internet service providers, but cable operators are not. For example, Verizon can offer its customers an Internet access service, but the user can instead select AOL, Earthlink, or any other ISP while receiving local telephone service from Verizon. If the subscriber has cable modem service, in most cases he is stuck with the cable company's affiliated ISP, and he would have to pay extra to reach a different ISP. This disparity makes no sense, especially given that cable operators have a 2–1 market share lead over telephone companies in the broadband marketplace.

The FCC should require cable operators to provide open access, just as telephone companies do. Americans deserve to choose their own ISP, rather than having the network owner choose for them. The FCC also should prohibit cable operators from using their bottleneck control of the network to discriminate against unaffiliated content providers or equipment suppliers. Such requirements would not involve the below-cost pricing associated with the objectionable unbundling regime, and accordingly would not chill investment in new networks. In fact, requiring all broadband network owners to provide a choice of ISPs will accelerate the deployment of broadband services at a more reasonable price.

TRIBUTE TO THE 12TH SERGEANT
MAJOR OF THE ARMY, JACK L.
TILLEY**HON. JOE KNOLLENBERG**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 21, 2004

Mr. KNOLLENBERG. Mr. Speaker, it is my distinct honor and privilege to simply say thank you to the 12th Sergeant Major of the Army, Jack L. Tilley. Thank you for your service to our country. Thank you for your sacrifice to this great nation, and thank you for your leadership as the highest ranking enlisted soldier in the Army.

Last week, Sergeant Major Tilley and his wife Gloria retired after 35 years in the Army. As Chairman of the House Appropriations Committee, Subcommittee on Military Con-

struction, I had the distinct pleasure of listening to Sergeant Major Tilley testify about quality of life issues for Army soldiers. I witnessed his concern for the men and women who serve our country. Let me assure you, Sergeant Major Tilley was a zealous and effective advocate for all soldiers. There were numerous occasions when his suggestions were incorporated into subcommittee policy. Believe me, Sergeant Major Tilley made a difference in the lives of soldiers and their families.

Effectively representing soldiers of the most powerful Army in the world is a challenging and evolving task. In his statement to the Subcommittee on Military Construction Appropriations on March 5, 2003, Sergeant Major Tilley stated, "Almost three years ago my boss—Army Chief of Staff General Eric Shinseki—gave me a fairly simple charter. My mission is to get out among our soldiers and their families, understand their needs and issues, and become their biggest advocate and supporter as I represent them to him, the Secretary of the Army, and other senior leaders throughout our government." I can say without hesitation, Sergeant Major Tilley has accomplished his mission.

Over the course of his career, and most notably during his tenure as Sergeant Major of the Army, Jack Tilley's number one priority was Army soldiers. From the day he took the office of Sergeant Major of the Army in June 2000, until his retirement, Jack Tilley took his mission to heart. By his own admission, Sergeant Major Tilley logged hundreds of thousands of miles of travel visiting Army soldiers across the United States and forward deployed to countries all over the world. Sergeant Major Tilley's actions and dedication reveal that he is not afraid to get his boots muddy, in fact, he revels in it.

Sergeant Major Tilley's care for soldiers was tested many times during his tour of duty. As the first Sergeant Major of the Army appointed in the 21st Century, Jack Tilley has coached and mentored Army soldiers through many challenges that his predecessors could never have imagined. Sergeant Major Tilley was the Army's lead advocate for soldier issues as a new administration came into office, defense transformation became a reality, and our country, and the building he worked in, were viciously attacked on September 11th, ushering in a new type of war, the Global War on Terrorism.

Yet for all that can be said about Sergeant Major Tilley and his many accomplishments, he is nothing if not the embodiment of the modern American Soldier. Sergeant Major Tilley's concern and dedication for Army soldiers reflects what the President said to soldiers at Fort Hood Texas, and I quote:

"As members of our military, you serve this nation's ideals and you demonstrate those ideals in your code and in your character. As Commander-in-Chief, I have come to know the men and women who wear America's uniform. I have seen your love of country and your devotion to a cause larger than yourself. I have seen your discipline, your idealism, and your sense of honor. I know that every order I give can bring a cost. I also know without a doubt that every order I give will be carried out with skill and unselfish courage."

The fact that the President of the United States notices and commends Army soldiers is testimony to the hard work and dedication of people like Sergeant Major Tilley. Unquestionably, the United States possesses the